

Consumer Focus Board

Paper 12.1

Title: Open Markets
Purpose: For discussion
Date of meeting: 15 September 2009
Responsible officer: Steve Brooker
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Attachments: None

1 Overview

1.1 The Board routinely takes a strategic overview of different strands of the GB work programme. This paper considers the Open Markets strand of the Fair Markets team.

2 Action for the Board

2.1 The Board is asked to discuss Consumer Focus's work on Open Markets. Some strategic questions to guide discussion are set out in section 4 below.

3 The key issues

3.1 The Fair Markets Team leads the organisation's work on the themes of Open Markets and Sustainability. Given the breadth of the Open Markets agenda, it was decided to focus solely on this part of the Team's activity in this paper.

3.2 The staff team working on Open Markets issues consists of the Programme Lead (Steve Brooker), one Principal Policy Advocate (a vacant post since 1 October) and two Senior Policy Advocates (Linda Weatherhead and Lola Bello). Two public affairs staff (Joanne Milligan and Natalie Yelton) and a Policy Advocate (Saskia Walzel) support the full Fair Markets team. Steve Brooker is leaving Consumer Focus on 18 September and will be replaced by Sarah Brooks who rejoins Consumer Focus on 28 September after maternity leave.

3.3 The work of the team potentially covers any aspect of GB markets outside of separately funded work-streams, i.e. energy, postal services and mobiles. Broadly speaking, the work can be considered as falling into the following areas:

- Consumer rights and the civil justice system – changes to consumer law (where there is close liaison with the International Team), our campaign for a private right of action under the Unfair Commercial Practices Directive, collective redress and wider civil justice reforms.

- Local and national regulation – the work of trading standards and the better regulation agenda as it applies to local and national regulators.
 - The digital economy – where we have a triple objective of achieving a well-functioning online market, achieving a fair balance between consumer and intellectual property rights holders and giving consumers a secure digital environment and effective control of their data. The main focus of this work to date has been on Digital Britain, copyright and privacy.
 - Failing markets – this captures all markets evidencing consumer detriment, although the major focus to date has been on financial services and other issues related to the recession such as consumer prepayments.
- 3.4 It is immediately apparent that the Open Markets work stream potentially covers a very wide policy agenda with limited staff resources. This means we must choose our priorities carefully, which on occasion must mean declining to involve ourselves in some important policy issues. In this context, there is a risk that we spread ourselves too thinly without making an impact, but at the same time an over-investment in one area creates the risk of leaving important issues untouched.
- 3.5 Another characteristic of the Open Markets work agenda, which arguably is more relevant to the Fair Markets team than any other, is that we must deal with unexpected events. The financial crisis is the obvious example of this, but there is also opportunity to raise Consumer Focus's profile when a 'consumer news scandal' breaks. This presents a challenge of getting the right balance between planned and proactive work. Providing sufficient time for proactive activity in response to the unexpected should also be considered in the context of work planning for 2010/11.
- 3.6 The Open Markets work agenda covers markets that are regulated at UK level, but elements of the consumer protection regime are devolved, for example the legal system and local authority regulatory services. Further, decisions made at UK level have relevance for devolved functions such as social inclusion and economic development, while differences in the demographic make-up of the nations may mean that the needs of consumers differ and so require a tailored policy response. It is important that staff across the organisation work collaboratively to ensure that our policy and campaigning work is sensitive to the devolved context.
- 3.7 The almost entirely new staff team has worked hard to score some notable achievements in the 2009/10 work plan year so far, including:
- Publication of Consumer Focus's first policy report, Rating Regulators, which was a very well-received examination of the strengths and weaknesses of six of Britain's major regulators. Other groundbreaking policy reports have been published on consumer prepayments and unfair commercial practices, both of which drew on substantial consumer research and generated a good level of media coverage and positive feedback from Government.
 - Making our mark on the Digital Britain initiative – an authoritative submission and ongoing lobbying work ensured that the Government's final report was more consumer-focused than the interim report. Our work has put the case

for a fair use exception back on the political agenda, although a battle still remains to get an acceptable solution on illegal file-sharing.

- Setting up the Focus on Finance initiative (see www.focusonfinance.org.uk) – with the help of a Board Steering Group, this unique debate series is asking the big questions to have emerged from the financial crisis from the consumer perspective. The first two seminars attracted a broad range of senior stakeholders and delivered some high-quality outputs.
- Running the Consumer Conditions Survey – working with the Principal Researcher, the team commissioned a major survey on the consumer experience of 45 different markets. The research has informed work planning for 2010/11 and we will shortly begin communicating the findings externally.
- Some early wins as a result of ongoing and new campaigning work, in areas such as garage servicing where 5,000+ garages now subscribe to a robust code of practice and ending the loophole that allows restaurant owners to use customer tips to top up the National Minimum Wage.

3.8 Our priorities for the remainder of the 2009/10 work plan year include:

- Completing the Focus on Finance debate series, culminating in a Consumer Focus manifesto on financial services ahead of the general election.
- Continuing our work on digital rights in the context of the Digital Economy Bill. Priorities include our campaign for a fair use exception (as previously discussed by the Board) and a partnership project with Demos and the Information Commissioner's Office on privacy.
- Engaging with policy initiatives stemming from the Consumer White Paper and developments in Europe, including consumer prepayments, high cost credit and the Consumer Rights Directive.
- Publishing the findings of some innovative research on life as a consumer in Britain as seen through the fresh eyes of expatriates.
- Continuing our thought leadership role on regulation.
- Input to the preparation of a super-complaint, in conjunction with the Chief Economist and other programme teams.

4 Strategic questions

4.1 The following questions are suggested to facilitate discussion:

- How do we strike the right balance between developing deep expertise in key areas and the responding to the demands of a wide policy agenda?
- What is the right balance between planned and proactive work?

- To what extent should we address horizontal issues (e.g. redress, regulation) as opposed to individual markets?
- Which 'advocacy styles' (i.e. think tank, watchdog, developmental, research) are best suited to the Open Markets strand of work?

5 Next steps

- 5.1 The Board's discussion will be invaluable in helping to shape the priorities of the incoming Programme Lead and to inform work planning for 2010/11.